IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 8844 of 2003

Between:

1. P. Suryanarayana Raju S/o.Late Venkatapathi Raju aged 38 years,
2. D. Karuna W/o.Gopala Raju, aged 33 years,
3. J. Tatarao s/o.Ramulu, aged 35 years,
4. Kathija Bi Bee, W/o.Abdul Jabbar, aged 65 years,
5. Chintalapati Varahalaraju s/o.Kannamraju, 55 years,
6. Yejerla Ramadevi w/o.Varahalaraju, 58 years, All are R/o.Pedda Gummaluru village, S.Rayavaram Mandal, Visakhapatnam District.
   ... PETITIONERS

AND

1. The District Collector, Visakhapatnam District, Visakhapatnam.
2. The Mandal Revenue Officer, S.Rayavaram Mandal, Visakhapatnam District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Mandamus, declaring the action of the respondents in high handedly trying to evict the petitioners 1, 3 to 6 from the land in Survey No. 93, an extent of Ac.4.00 each, situated at Peddagummaluru village, S.Rayavaram Mandal, issued to the petitioners by the 2nd respondent herein by provisional pattas in the year 1992 and Ac.3.90 cents of land is S.No.509/4 issued under D.form patta in the year 1987 to the 2nd petitioner, situated at Pedda Gummaluru village, as being illegal, unjust, and arbitrary.

Counsel for the Petitioners: MR.E.V.BHAGIRATHA RAO

Counsel for the Respondents: GP FOR ASSIGNMENT

The Court made the following :

ORDER:

The case of the petitioners, who are six in number, is that the land, admeasuring Acs.4-00 each in Sy.No.93 of Peddagummaluru village of S.Rayavaram Mandal, was provisionally assigned to the petitioners in November, 1992 and that since then, they have been in continuous possession of the said land. They also allege that they have raised cashew garden, but on 1.5.2003, the second respondent took measurements of the land and threatened the petitioners that they would be evicted. Therefore, they filed the present writ petition seeking a declaration that the action of the respondents in trying to evict the petitioners from the land in Sy.No.93 is illegal and arbitrary.

Respondents filed counter affidavit stating that the land admeasuring Acs.101-98 cents in Sy.No.93 was assigned to 52 beneficiaries, that on a complaint given by one K.Prakash Rao about misutilisation of the Government land by the encroachers, the Government ordered an enquiry, that the Joint Collector conducted enquiry and it was found that the petitioners are not personally cultivating the land and that one Sudarshan Raju @ Pottibabu is in possession of the land cultivating commercial crops, like cashew nut. The Mandal Revenue Officer who filed the counter affidavit on behalf of the respondents further states that two special teems were constituted and a notice was published in news papers to the effect that provisional pattas granted to the beneficiaries, including the petitioners, would be cancelled after due process of law. A further statement is made that after canceling the assignment made to the petitioners, the land will be assigned to the eligible landless poor persons.

Though interlocutory matters are listed, the matter was heard finally and is being disposed of by this order. A perusal of the counter affidavit would show that though the land was assigned to the petitioners during the year 1992-93, the petitioners are not cultivating the land and one Sudharshan Raju is cultivating the land benami. This Court granted sufficient time to the learned counsel for the petitioners to file a reply affidavit, but no such reply affidavit is forthcoming. Therefore, this Court has no reason to disbelieve the averments made by the Mandal Revenue Officer in the counter affidavit that the petitioners are not in possession of the land. However, as rightly submitted by the learned Assistant Government Pleader for Revenue (Assignment), the assignments made in favour of the petitioners have not yet been cancelled and the same has to be done only after following due process of law, like issuance of notice to the petitioners and conducting of enquiry regarding their eligibility, within a period of eight weeks from the date of receipt of a copy of this order. If the petitioners are still personally cultivating the land, there shall be *status quo* till such enquiry is conducted.

Writ petition, with the above observations, is disposed of. No costs.

_____

(V.V.S.RAO, J)

25th October, 2004.

Pan

To

1. The District Collector, Visakhapatnam District, Visakhapatnam.
2. The Mandal Revenue Officer, S.Rayavaram Mandal, Visakhapatnam District.
3. Two C.Cs to Govt.Pleader for Assignment,

High Court buildings, Hyderabad (OUT)

4. Two C.Ds.